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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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AARON CHARLES HILL,

Plaintiff,

*versus*

SEAN VILLERY-SAMUEL, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:18-CV-590

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE  
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff, Aaron Charles Hill, an inmate currently confined at the Hightower Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants Sean Villery-Samuel, the State of Texas, the Beaumont Police Department, Judge Rachel West,<sup>1</sup> Assistant Chief District Attorney Ashley Mofino,<sup>2</sup> Detective Cindy Phillips and the Jefferson County Sheriff Department.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed for failure to state a claim and as frivolous pursuant to 28 U.S.C. § 1915A without prejudice to plaintiff’s right to re-file if and when plaintiff can demonstrate his criminal conviction has been invalidated.<sup>3</sup>

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<sup>1</sup> Judge West’s correct name is Raquel West.

<sup>2</sup> The correct spelling is Ashley Molfino.

<sup>3</sup> The Magistrate Judge also recommended that the dismissal was without prejudice to plaintiff’s right to re-file without paying the filing fee as plaintiff has paid the full filing fee in this action.

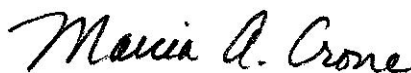
The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

This court can find no error in the recommendations of the Magistrate Judge. A judgment in favor of plaintiff would necessarily imply the invalidity of the duration of plaintiff's confinement. Pursuant to *Heck v. Humphrey*, a complaint must be dismissed unless the plaintiff can demonstrate that a proceeding relating to the duration of his confinement has already been invalidated. 512 U.S. 477, 486-87 (1994). Plaintiff's habeas petition relating to his conviction is still pending. *Hill v. Director*, 1:19-CV-15. Furthermore, plaintiff's claims against defendant West and Mofino are barred by absolute immunity. *Mitchell v. Forsyth*, 472 U.S. 511, 525 (1985).

### **ORDER**

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **PARTIALLY ADOPTED**, to the extent it recommends dismissal. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

SIGNED at Beaumont, Texas, this 3rd day of April, 2020.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE